



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by Thomson West.*

### TITLE 14. FISH AND GAME COMMISSION

#### Notice of Proposed Changes in Regulations

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1052, 7071, 7078, 7852.2, 7881, 7923, 8026, 8046, 8101, 8425, and 8429.5 of the Fish and Game Code and to implement, interpret or make specific sections 7050, 7070, 7071, 7075, 7078, 7082, 7083, 7086, 7701, 7708, 7923, 8026, 8081, 8420, 8425, 8429.5, and 8429.7, of said Code, proposes to amend sections 53.03, 149, 149.1, Title 14, California Code of Regulations, relating to Market Squid Fishery Restricted Access Program.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### *Item 1: Provide for a Non-Transferable Market Squid Light Boat Permit Classification*

In response to recent public requests, the Fish and Game Commission (Commission) proposes to consider authorizing a Non-Transferable Market Squid Light Boat Permit category consistent with the intent of the grandfather clause, with qualifying criteria proposed as follows.

A Non-Transferable Market Squid Light Boat Permit may be issued to an individual that meets all of the following requirements:

- is the owner of a commercial fishing vessel that has been registered with the Department of Fish and Game (Department) pursuant to Fish and Game Code Section 7881 at the time of application;
- the individual must have been issued a Market Squid Vessel Permit or a Squid Light Boat Owner's Permit for the 2004-05 permit year for use on that vessel that has not been suspended or revoked;

- pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application;
- the individual must have submitted to the Department at least one market squid light boat logbook form (DFG 149b) with fishing activity dated from January 1, 2001 through August 27, 2004 for that vessel.
- Only logbook forms from a vessel with a Market Squid Vessel Permit or a Squid Light Boat Owners Permit for the 2004-05 permit year that has not already qualified for issuance of a Transferable Market Squid Vessel Permit or a transferable Market Squid Brail Permit or a Transferable Market Squid Light Boat Permit are valid for consideration. Not more than one squid permit, regardless of the class of permit, may be placed on a particular vessel.

Proposed application criteria are as follows: All applications and permit fees for initial issuance of Non-Transferable Market Squid Light Boat Permits must be received by the Department, or, if mailed, postmarked on or before June 30, 2007. Applications and permit fees received by the Department, or, if mailed, postmarked from July 1 through July 31, 2007 will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees received by the Department or postmarked after July 31, 2007 will be denied by the Department and returned to the applicant. Annual renewal procedures are as specified for other Market Squid Permit classifications.

If the Commission adopts the proposal to include a Non-Transferable Light Boat Permit class, the Commission will establish a fee for the permit as described in Item 2 below.

Unlike Transferable Market Squid Light Boat Permits, the proposed regulations would not allow the holder of a Non-Transferable Market Squid Light Boat Permit to upgrade his or her permit to a Non-Transferable Market Squid Brail Permit upon payment of an upgrade fee.

Based on license sales records and logbook records, the Department estimates that two individuals will meet the proposed qualifying criteria for this permit class, although it is possible that up to six may qualify. The Department believes that addition of two permits to the 170 that are already authorized will have, overall, a negligible impact upon the squid resource and the other fishery participants. However, addition of any permits to the fishery adds to the fishery's capacity, and one identified goal of the squid FMP and restricted access program is to reduce excessive fishing capacity.

**Item 2: Adjust permit fees for all commercial squid permit classes to adequately cover Department and Commission costs.**

Arising from the ongoing and increased workload associated with maintaining the squid permit system and squid fishery management and enforcement, in order to more adequately cover costs, the Commission has agreed to consider increased permit fees for all classes of squid permits.

When the Commission adopted the limited entry program in 2004, the following annual permit fees were established in subsection 149.1(i), Title 14, California Code of Regulations (CCR);

Market Squid Vessel Permit—Transferable—\$2,000.

Market Squid Vessel Permit—Non-Transferable—\$1,000.

Market Squid Brail Permit—Transferable—\$2,000.

Market Squid Brail Permit—Non-Transferable—\$1,000.

Market Squid Light Boat Permit—Transferable—\$600.

Based on recent cost estimates, the Department proposes the Commission increase the fee for each permit class to an annual level of \$5,000—\$8,000. This proposed fee range would also apply to the Non-Transferable Light Boat Permit category, if one is created.

**Table 1 — Recent Squid Revenue to DFG — All Sources**

2003/04 Permit Year	2004/05 Permit Year	2005/06 Permit Year
<b>Landing Tax Revenue (\$3.80 paid to Dept per ton)</b>		
\$228,900	\$204,800	\$300,900
<b>Permit Sale Revenue</b>		
\$89,400	\$83,900	\$231,400
<b>Total Revenue to DFG</b>		
<b>\$318,300</b>	<b>\$288,700</b>	<b>\$532,300</b>

As described in Table 1 above, revenue to the Department for commercial squid monitoring, management and enforcement activities come from two primary sources: the \$3.80 per-ton tax on landings established by the Legislature, and the sale of commercial squid fishery permits. Because the Legislature established this tax rate, the Commission does not have authority to alter it with its own regulations, leaving permit fees as the mechanism the Commission may use to acquire needed funds for squid programs.

For the 2005/2006 permit year, squid landings taxes and permit fees paid to the Department totaled \$532,300; which represented about 1.3 percent of the ex-vessel value of the fishery in that season.

However, a recent examination of Department-wide costs for all squid-related work indicates that costs, on average, have totaled approximately \$1,369,000 per year. Table 2 below itemizes these costs below and describes the tasks involved where costs are incurred.

**Table 2 — Comprehensive Cost Estimate for Management Of the Market Squid Fishery and Resource (Costs to All Department Functions)**

Specific Tasks or Services Provided	Region/Branch /Division Impacted	Annual Cost Estimate*
1. Market Squid Fishery Management Plan (FMP) Development and Implementation – Staff perform squid fishery monitoring and biological sampling, analyze catch data, maintain the fishery logbook program, comply with CEQA processes and requirements, and participate in state/federal cooperative management efforts (squid is also included in the federal Coastal Pelagics FMP). Participate in collaborative squid research activities as time and funding allow, and respond to ongoing industry and public inquiries. Also responsible for restricted access program development and analytical support required to maintain the restricted access program.	Marine Region - Market Squid Project	\$550,000 - \$964,000**

2. Commercial Fisheries Information System (commercial catch records and database management) – Staff perform data entry, error checking and database management required for approximately 4,000 squid landings each year. On request, staff provide catch information to fishermen, enforcement, courts, and licensing staff (for purposes of evaluating permit appeals). Staff are also responsible for development of landing receipt protocols and monitoring compliance.	Marine Region Biostatistical Unit	\$30,000
3. Marine Region Policy - CEA costs and support – Provides policy recommendations to the Directorate regarding squid management, FMP content, regulations, permit requirements and procedures. Also serves as the California representative on the PFMC and represents the Department in other inter-agency management and research issues involving squid. Directs and supervises marine staff working on squid, oversees budgets, and serves as point person for fishery industry meetings and matters involving the Commission. Includes costs for executive support.	Marine Region – CEAs and support	\$14,000
4. Marine Region Regulatory Costs – Staff draft regulations and supporting documents for the FMP and the restricted access program; respond to Commission requests for rule changes, and provide economic, fiscal and other analyses as requested.	Marine Region – Regulatory Unit	\$24,000
5. Marine Region License Counter and Administrative Support - Mailing and documentation of logbook records, provide license counter clerical assistance in Monterey and Los Alamitos, and respond to public inquiries.	Marine Region – Administrative function	\$6,000
6. Communication/Outreach costs – Maintain DFG website materials relating to the squid FMP, provide press releases, media responses and other information as needed for matters relating to squid science, research, fishery permit requirements, or fishing regulations.	Conservation Education Division	\$4,000
7. Enforcement Costs – Personnel and operating expenses associated with at-sea squid patrol for large boats, small boats, and aircraft. Land-based patrol needs include those for dockside investigation of vessels and squid processing operations. Additional operating costs include those needed for investigations, prosecution, and report filing. Patrol activities include enforcement of permit requirements and other regulations specific to the squid fishery, such as closed areas and weekend closures.	Enforcement Branch	\$523,000
8. Squid Permit Program – Issuance and tracking of six classes of squid permits, collection of fees, evaluation of permit transfer and upgrade requests. Respond to permit appeal requests made to the Department and the Commission. Staff also process annual permit renewals, respond to inquiries regarding permit requirements and transfer provisions, and develop the commercial regulations booklet and application forms annually.	License and Revenue Branch	\$102,000
9. Legal – Review of FMP and regulatory documents, respond to permitting and restricted access legal needs, and provide legal guidance to directorate. NOTE: Any litigation that may arise would substantially alter this cost estimate.	Legal Office	\$7,000
10. Legislative Affairs – Respond to proposed squid legislation; provide information to the Legislature and committees on the status of squid fishery management, inform directorate of proposed changes and develop policy recommendations.	Legislative Affairs Office	\$5,000



11. Directorate – Set Department policy relative to squid management, provide recommendations to the Commission, and represent the Department in squid discussion items at Marine Resource Committee meetings, Fish and Game Commission meetings, and permit appeal hearings. Includes costs for executive assistance and WIFD Regulatory Unit.	Executive Office	\$15,000
12. Distributed Administration - Costs to Department human resources for squid-specific personnel, accounting for squid programs, and budgets and audits functions relative to squid and squid landings. Staff track and process payment of quarterly squid landings taxes, determine allotments, track direct and indirect expenditures, and provide personnel support and services.	Human Resources, Accounting, Budgets and Audits Divisions	\$24,000
13. Information Technology (IT) - Maintain, enhance, modify and develop new components of the Commercial Fisheries Information System (CFIS) and other IT applications that support squid logbook and port sampling data, squid permits, commercial catch data, taxation and license compliance, and annual license and vessel registration renewals. In addition, staff analyze complex requests and generate ad hoc reports and extracts required to support the management of the Market Squid Fishery. Other staff functions that are impacted by this effort but not included in the cost estimate are server, network, and database administration and support, and PC support which provide critical IT infrastructure to Department staff.	Information Technology Branch	\$25,000
14. Fish and Game Commission – Set squid policy by adopting the FMP and supporting regulations, including those for the restricted access program. Hold Commission and Marine Resource Committee meetings throughout the state where squid management and policy are discussed. Hold permit appeal hearings and make decisions. Staff prepare regulatory documents, respond to public comments and inquiries, and fulfill other requirements of the Administrative Procedure Act.	Fish and Game Commission	\$40,000

**Total Estimated Minimum Annual Costs = \$1,369,000**

\*Estimates derived by considering costs incurred over the past three permit years, as well as anticipated near-future costs. No adjustments for inflation or future cost increases are included

\*\* FMP implementation costs are provided as a range based on the extent to which funding would be provided for scientific research to be performed on a contract basis. Minimum baseline funding needs for squid monitoring and management under the FMP without any additional scientific research are estimated at \$550,000 annually. It should be noted that recent annual squid FMP expenditures have totaled only \$312,000 annually. These staffing levels continue to be inadequate to support the baseline monitoring items identified in the FMP, such as logbook and port sample data processing and analysis, and management needs.

To determine an appropriate fee level, Department costs must first be offset by the revenue anticipated to be taken in from landings taxes. Following from Table 1

above, the average amount earned from landings taxes over the past three seasons is approximately \$245,000.

Therefore, if minimum costs are \$1,369,000, the amount that would need to be generated from permit sales to fully cover these costs is (\$1,369,000 — \$245,000) or \$1,124,000. Since there are presently 170 permits, and the department might anticipate two additional permits to be sold with creation of a Non-Transferable Light Boat Permit Class, if all permits fees are set at the same level, a fee that might fully cover costs might be approximated by:

$$(\$1,124,000/172 \text{ permits}) = \$6,535 \text{ per permit}$$

At this time, the Department has provided a range of annual fee alternatives for each permit class of between \$5,000 and \$8,000 per squid permit. As it did in 2004, the Commission may again wish to select fees that differ depending on the class of the permit.

However, it should be noted that selecting a fee structure that results in an average cost of \$6,535 per permit would suggest that it is expected that the commercial

squid fishery be responsible to cover all costs of the FMP, monitoring, and management of the squid fishery by itself, without any funds coming from other sources. However, other stakeholder groups have participated in discussions during the FMP development process, and during subsequent proceedings involving squid regulatory action.

For example, to the degree that the listed activities itemized in Table 2 are of benefit to recreational squid fisheries or to other recreational fishing opportunities that rely on squid management, it may be appropriate for the Commission to consider that when setting the fee level. The source of funds used in such instance would be Department Non-Dedicated Fish and Game Preservation Fund monies acquired by the sale of sport fishing licenses.

However, it should also be noted and consideration given to the fact that there is no direct source of funds paid to the Non-Dedicated Fish and Game Preservation from the environmental community, or from other non-consumptive resource stakeholders who do not purchase licenses. There is no permit that is issued for the non-consumptive use of the state's resources (i.e. bird-watching, whale watching, wildlife photography, hiking, kayaking, etc). So unless money is appropriated from the Legislature from the state's general fund for the Department and Commission's work on squid activities, there is no way to recover costs for management which may serve to benefit these stakeholders. To date, there has been no such appropriation made, and thus in all past years the costs have been absorbed by sport and commercial licensees.

***Item 3: Update Market Squid Light Boat Logbook Form Number and Add Logbook forms to Title 14 Appendix with other Logbook forms.***

Pursuant to subsection 149(b), Title 14, CCR, any squid permittee must complete and submit an accurate record of his/her squid fishing/lighting activities on a form (Market Squid Vessel Logbook — DFG 149a (9/01), or Market Squid Light Boat Logbook — DFG 149b (9/01). These forms are incorporated by reference into the regulations. The Department proposes to update the date of DFG 149b to (10/05), and to add both forms to the Appendix section, for clarity and consistency with other logbook programs.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Museum of Natural History, Fleischmann Auditorium, 2559 Puesta del Sol Road, Santa Barbara, California, on Friday, August 25, 2006 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hubbs–Sea World Research Institute, Shedd Auditorium, 2595 Ingraham Street, San Diego, California, on October 6, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before September 29, 2006 at the address given below, or by fax at (916) 653–5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 4, 2006. All comments must be received no later than October 6, 2006 at the hearing in Monterey, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Fischer, or Sheri Tiemann at the preceding address or phone number. **Marci Yaremko, Marine Region, Department of Fish and Game, (805) 568–1220, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

**Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

**Impact of Regulatory Action**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following ini-

tial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

***Item 1: Provide for a Non-Transferable Market Squid Light Boat Permit Classification***

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action to create a Non-Transferable Market Squid permit class may result in issuing approximately 2 additional squid permits; which is likely to have a negligible if any impact on other squid permit holders or fish processors. Precise estimates cannot be quantified.

***Item 2: Adjust permit fees for all commercial squid permit classes to adequately cover Department and Commission costs.***

The proposed action is likely to have some statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. See discussion of costs to the Department and Commission of managing the market squid FMP and restricted access permit program in Section III(a) of this initial Statement of Reasons. Current annual squid permit fees range in price from \$600 to \$2,000. The Department proposes an increase in these fees to a level between \$5,000 to \$8,000, and the level may be set differently depending on the class of permit. At present expenditure levels, a fee level of approximately \$6,535 per permit annually would fully cover program costs.

***Item 3: Update Market Squid Light Boat Logbook Form Number and Add Logbook forms to Title 14 Appendix with other Logbook forms.***

The proposed action will not have statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, since the change is only technical in nature.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

The Department anticipates that Item 2, relating to proposed increases in permit fees, could have some minor but unquantifiable impact on jobs within the state, and possible elimination of existing businesses for those squid permit holders who do not find it economical to pay substantially increased annual permit fees. This might be the case for permittees who do not cur-

rently fish for squid to recoup the cost of the permit fee, and instead are holding the permit for other reasons than an interest in presently fishing for squid.

- (c) Cost Impacts on a Representative Private Person or Business:  
See items (a) and (b) above.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: See discussion in Section III(a) of the ISOR. The proposal to increase permit fees results directly from the State's need (Department and Commission) to more adequately costs of the current program.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 16. RESPIRATORY CARE BOARD

### NOTICE OF PROPOSED CHANGES

NOTICE IS HEREBY GIVEN that the Respiratory Care Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Respiratory Care Board of California at 444 North 3rd Street, Suite 270, in Sacramento, California at 9:00 a.m. on October 3, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Respiratory Care Board at its office not later than 5:00 p.m. on October 2, 2006, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party,



may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

## AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 3722 of the Business and Professions Code, and to implement, interpret or make specific section 3765 of said Code, the Respiratory Care Board is considering changes to Division 13.6 of Title 16 of the California Code of Regulations as provided under Informative Digest/Policy Statement Overview.

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing law defines the practice of respiratory therapy, and prohibits its practice without a license issued by the Board, subject to certain exceptions. These exceptions are defined within Business and Professions Code section 3765. Senate Bill 1476 (Figueroa) is currently proposing an amendment to Business and Professions Code section 3765 to specify that a person employed by a home medical device retail facility or a licensed home health agency is not prohibited by the act from performing respiratory care or related services authorized by the Board.

This proposal would amend the definition of "employer" to include any company, corporation, partnership, health maintenance organization, or any other entity or person that employs or contracts with one or more respiratory care practitioners or unlicensed or unauthorized personnel to provide respiratory care services as provided in the Respiratory Care Practice Act, and would define the terms, "Home Care Employer" and "Unlicensed or Unauthorized Personnel." This proposal would also adopt a regulation to specify what services, and under what criteria, respiratory care services may be performed by unlicensed personnel in a home care setting.

## FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: NONE

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: NONE

Business Impact:

The Respiratory Care Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Respiratory Care Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities:

The Respiratory Care Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: NONE

## EFFECT ON SMALL BUSINESS

The Respiratory Care Board has determined that the proposed regulations would affect small businesses.

## CONSIDERATION OF ALTERNATIVES

The Respiratory Care Board must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in the Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Respiratory Care Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing by accessing the Board's website at [www.rcb.ca.gov](http://www.rcb.ca.gov) or upon request from the Respiratory Care Board at 444 North 3<sup>rd</sup> Street, Suite 270, Sacramento, CA 95814.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

## CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Christine Molina, Staff Services Manager  
Respiratory Care Board of California  
444 North 3<sup>rd</sup> Street, Suite 270  
Sacramento, CA 95814  
(916) 323-9983  
[rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov)

The backup contact person is:

Stephanie Nunez, Executive Officer  
Respiratory Care Board of California  
444 North 3<sup>rd</sup> Street, Suite 270  
Sacramento, CA 95814  
(916) 323-9983  
[rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be addressed to:

Christine Molina, Staff Services Manager  
Respiratory Care Board of California  
444 North 3<sup>rd</sup> Street, Suite 270  
Sacramento, CA 95814  
(916) 323-9983  
[rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov)

## TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

ACTION: Notice of Proposed Rulemaking Action  
Title 28, California Code of Regulations

SUBJECT: Revising Section 1300.71 in title 28,  
California Code of Regulations — **Claims  
Settlement Practices, Control No.  
2006-0782**

## PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to promulgate regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) relating to claims settlement practices by revising section 1300.71 at title 28, California Code of Regulations. Before undertaking this action, the Director will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

## PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may request, in writing, a public hearing, pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the contact person of the Department of Managed Care (Department), designated below, no later than 15 days prior to the close of the written comment period.

## WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments, or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Department's Office of Legal Services, by 5 p.m. on **October 2, 2006**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email, or via the Department's website:

Website: [www.dmhc.ca.gov](http://www.dmhc.ca.gov)  
 Email: [regulations@dmhc.ca.gov](mailto:regulations@dmhc.ca.gov)  
 Mail: Emilie Alvarez, Regulations  
 Coordinator  
 Department of Managed Health  
 Care  
 Office of Legal Services  
 980 9<sup>th</sup> Street, Suite 500  
 Sacramento, CA 95814  
 Fax: (916) 322-3968

Please note, if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and U.S. Postal, Service mailing address in order for the Department to provide commenters with notice of any proposed changes in the regulation text so that additional comments may be solicited.

Inquiries concerning the proposed adoption of this regulation may be directed to:

Kevin Donohue  
 Deputy Director  
 Department of Managed Health Care  
 Office of the Director  
 980 9<sup>th</sup> Street, Suite 500  
 Sacramento, CA 95814  
 (916) 322-6727  
 (916) 322-3968  
[kdonohue@dmhc.ca.gov](mailto:kdonohue@dmhc.ca.gov)

Emilie Alvarez  
 Regulations Coordinator  
 Department of Managed Health Care  
 Office of Legal Services  
 980 9<sup>th</sup> Street, Suite 500  
 Sacramento, CA 95814  
 (916) 322-6727  
 (916) 322-3968  
[ealvarez@dmhc.ca.gov](mailto:ealvarez@dmhc.ca.gov)

## CONTACTS

Please identify the action by using the Department's regulation title and control number, **Claims Settlement Practices, Control #2006-0782**, in any of the above inquiries.

## AVAILABILITY OF DOCUMENTS

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the Regulations Coordinator listed above. Please call (916) 322-6727 to make an appointment.

The Notice of Proposed Rulemaking, proposed text of the regulation, and the Initial Statement of Reasons are available via the Department's website at <http://wpso.dmhc.ca.gov/regulations/>, under the heading "Open Pending Regulations."

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Health and Safety code sections 1341.9, 1344 and 1346 vest the Director with the power to administer and enforce the provisions of the Act.

California Health and Safety Code section 1344 authorizes the Director to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter.

Existing law, enacted in 2000, through adoption of Assembly Bill 1455 (AB 1455; Scott; stats 2000, ch. 827) the California State Legislature enacted a comprehensive set of statutes intended to reform the claims submission and payment systems of California's health care industry. AB 1455 was enacted to refine the dispute resolution process between health plans and health care providers. The bill prohibited health care service plans from engaging in unfair payment patterns, and increased the penalties for doing so. The AB 1455 amendments to the Knox-Keene Act expressly authorized the Department to adopt regulations to implement and clarify the new statutes.

This proposed rulemaking action is intended to further implement, interpret, and/or make specific Health and Safety Code sections 1367(h), 1371, 1371.1, 1371.35, 1371.36, 1371.38 and 1371.39. The proposed revisions to section 1300.71 are to provide additional clarification regarding the requirements affecting claims settlement practices.

## AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be directed to Emilie Alvarez, Regulations Coordinator, at (916) 322-6727 or [regulations@dmhc.ca.gov](mailto:regulations@dmhc.ca.gov). The Director will accept com-

ments via the Department's website, mail, fax or email on the modified regulation(s) for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

#### **ALTERNATIVES CONSIDERED**

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

#### **FISCAL IMPACT DETERMINATIONS**

- Mandate on local agencies and school districts: None
- Cost or Savings to any State Agency: None
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Direct or Indirect Costs or Savings in Federal Funding to the State: None
- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None
- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business that would necessarily incur in reasonable compliance with the proposed action.
- Significant effects on housing costs: None
- Adoption of these regulations will not:

(1) create or eliminate jobs within California;

(2) create new business or eliminate existing businesses within California; or

(3) affect the expansion of businesses currently doing business within California.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

#### **FINDING REGARDING REPORTING REQUIREMENT**

Government Code section 11346.3(e) provides as follows:

"No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses."

All reporting requirements included in these regulations do apply to businesses because the Department has determined that the regulations are necessary to maintain the health, safety and welfare of the people of the State of California.

#### **AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF THE REGULATION, AND THE RULEMAKING FILE**

The Department has prepared and has available for public review the Initial Statement of Reasons, the text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file).

This information is available by request at the Department of Managed Health Care, Office of Legal Services, 980 9<sup>th</sup> Street, Suite 500, Sacramento, CA 95814, Attention: Regulations Coordinator. The Notice of Proposed Rulemaking, the proposed text of the regulation, and the Initial Statement of Reasons are also available via the Department's website at <http://wpso.dmhca.gov/regulations/>, under the heading "Open Pending Regulations." <http://www.hmohelp.ca.gov/library/regulations/>, under the heading, Proposed Regulations.



## TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

**ACTION:** Notice of Proposed Rulemaking Action  
Title 28, California Code of Regulations

**SUBJECT:** Unfair Billing Patterns; Prohibition  
Against Billing Enrollees for Emergency  
Services; Independent Dispute Resolution  
Process, Control No. 2006-0777,  
Adopting Section 1300.71.39 and  
Revising Section 1300.71.38 in title 28,  
California Code of Regulations.

### PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to promulgate regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) relating to Unfair Billing Patterns and a new Independent Dispute Resolution Process for non-contracting providers by adopting new section 1300.71.39, and revising existing section 1300.71.38, at title 28, California Code of Regulations. Before undertaking this action, the Director will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

### PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may submit a written request for a public hearing, pursuant to section 11346.8(a) of the Government Code. The written request for hearing must be received by the Department's contact person, designated below, no later than 15 days prior to the close of the written comment period.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Department of Managed Health Care, Office of Legal Services, by 5 p.m. on **October 2, 2006**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Atten-

tion: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email, or via the Department's website:

Website: [www.dmhc.ca.gov](http://www.dmhc.ca.gov)  
Email: [regulations@dmhc.ca.gov](mailto:regulations@dmhc.ca.gov)  
Mail: Emilie Alvarez,  
Regulations Coordinator  
Department of Managed Health  
Care  
Office of Legal Services  
980 9<sup>th</sup> Street, Suite 500  
Sacramento, CA 95814  
Fax: (916) 322-3968

Please note, if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, whether sent via the website, email, fax or mail, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed change in the regulation text on which additional comments may be solicited.

Inquiries concerning the proposed adoption of this regulation may be directed to:

Kevin Donohue  
Deputy Director  
Department of Managed Health Care  
Office of the Director  
980 9<sup>th</sup> Street, Suite 500  
Sacramento, CA 95814  
(916) 445-9753  
[kdonohue@dmhc.ca.gov](mailto:kdonohue@dmhc.ca.gov)

Emilie Alvarez  
Regulations Coordinator  
Department of Managed Health Care  
Office of Legal Services  
980 9<sup>th</sup> Street, Suite 500  
Sacramento, CA 95814  
(916) 322-6727  
[ealvarez@dmhc.ca.gov](mailto:ealvarez@dmhc.ca.gov)

### CONTACTS

In your comments or inquiries, please use the Department's regulation title and control number, **Unfair Billing Patterns; Prohibition Against Billing Enrollees For Emergency Services; Independent Dispute Resolution Process, Control #2006-0777**.

### AVAILABILITY OF DOCUMENTS

The Initial Statement of Reasons, the text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file) are

available for public review. All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the Regulations Coordinator listed above. Please call (916) 322-6727 to make an appointment.

The Notice of Proposed Rulemaking, proposed text of the regulation, and the Initial Statement of Reasons are also available via the Department's website at <http://wpsso.dmh.ca.gov/regulations/>, under the heading "Open Pending Regulations."

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Health and Safety Code sections 1341.9, 1344, and 1346 vest the Director with the power to administer and enforce the provisions of the Act.

California Health and Safety Code section 1344 authorizes the Director to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of the Knox-Keene Act, including rules governing applications and reports, and defining any terms, whether or not used in the Knox-Keene Act, insofar as the definitions are not inconsistent with the provisions of the Knox-Keene Act. Furthermore, the Director has the discretion to waive any requirement of any rule or form in situations where, such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to the Knox-Keene Act.

These regulations are intended to implement, interpret, and/or make specific Health and Safety Code sections 1367(h), 1371, 1371.1, 1371.35, 1371.36, 1371.38, 1371.39, 1371.4 and 1379. This rulemaking action is intended to clarify unfair billing practices by non-contracting providers who provide emergency services to health plan enrollees, to prohibit balance billing of health plan enrollees by non-contracting emergency services providers, and to implement an independent claims payment dispute resolution process to provide non-contracting providers with a fast, fair and cost-effective process to resolve claims payment disputes with health plans, and to provide specific determinations for claims payment amounts, and to ensure that non-contracting providers are paid fairly and consistent with the health plans obligations to pay for covered services pursuant to Sections 1371, 1371.35 and 1371.4.

### Health Care Industry Context

Existing federal and state law require emergency care providers to provide emergency care without regard to a patient's ability to pay.<sup>1</sup> Emergency care providers are

entitled to be paid fairly and promptly for the lifesaving services rendered whenever and wherever needed. Emergency care providers have expressed concerns regarding the level of reimbursement that they receive from health plans with which they do not contract, and this concern has led to the practice of non-contracted emergency care providers seeking reimbursement directly from health plan enrollees rather than the health plans.

Health plans are legally responsible, pursuant to the Knox-Keene Act, for paying emergency care providers for covered services rendered to their enrollees. The cost of emergency services can be extraordinarily high, and Californians who prudently purchase the financial protections of health care coverage should be able to trust that their health plans will fairly and promptly reimburse medical providers who provide them care when they are seriously ill or injured and in need of emergency care.

Health plans and the Department have dispute resolution processes available for non-contracting providers. Even if a health plan has paid the non-contracted provider less than the reasonable and customary value for services rendered, the health plan remains financially responsible for appropriate reimbursement, not the enrollee. In addition to these dispute resolution processes, the Second District Court of Appeal confirmed in *Bell v. Blue Cross* (2005) 131 Cal. App. 4th 211 that emergency providers have the common law right to sue health plans for restitution when they believe they have not been adequately reimbursed for their services.

Nevertheless, emergency service providers who have not contracted with a health plan generally ignore the processes available to them for submitting claims to, and obtaining payment from, health plans, and to resolve disputes regarding claims payment and claims settlement. Instead, they continue to seek reimbursement of their claims directly from health plan enrollees. As a result, innocent enrollees are routinely exploited and leveraged as bargaining chips in an unfair provider billing pattern, which often leads to detrimental health care decisions by the enrollee and aggressive collection activities by the provider, with long-term harm to the enrollee's health, safety, and financial stability.

The system weaknesses that generate the need for non-contracting providers to balance bill enrollees include the lack of an independent, fast, fair and cost-effective mechanism for resolving claims payment disputes between non-contracting providers and health plans. Providers currently have well established systems in place for billing patients to whom they have provided services. When a health plan pays a non-contracting provider an amount that is less than the provider considers fair and reasonable, the provider may pursue additional reimbursement by suing the health plan in

<sup>1</sup> Emergency Medical Treatment and Active Labor Act (EMTALA) 42 USC 1395dd et seq.; California Health and Safety Code section 1317 et seq.

civil court. However, the cost of such a lawsuit greatly exceeds the cost of balance billing the enrollee. Therefore, to address the problem of balance billing by emergency services providers in a meaningful manner, it is necessary for the Department to develop and implement a mechanism by which non-contracting providers can obtain a fast, fair and cost-effective alternative to traditional high-cost civil remedies and to balance billing enrollees. The proposed revision to existing section 1300.71.38 will provide this fast, fair and cost-effective dispute resolution process for non-contracting providers.

#### Existing Law and Authority

- Health plans are obligated to provide or arrange for the provision of all basic health care services, including emergency health care services,<sup>2</sup> to enrollees. (Health and Safety Code, section 1367(i).)
- Health care service plans, and their contracting medical providers, are required to provide 24-hour access to emergency care and must “reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee.” (Health and Safety Code, section 1371.4 (a) and (b).)
- A health plan may only deny payment for emergency services and care if the health plan reasonably determines that emergency services and care were never performed. (Health and Safety Code, section 1371.4(c).)<sup>3</sup>
- The obligation of a health plan to pay claims submitted by a non-contracting emergency services provider are not waived when the plan delegates the financial risk for such claims to its contracting medical groups. Health & Safety Code Section 1371.35(f)
- Health care service plans must ensure that a dispute resolution mechanism is accessible to non-contracting providers for the purpose of resolving billing and claims disputes. (Health and Safety Code, section 1367(h)(2).)
- The legislature expressly authorized the Department adopt regulations that ensure that plans have adopted a dispute resolution

mechanism pursuant to Section 1367(h). Health and Safety Code Section 1367.38.

- Contracting providers are prohibited from directly billing health plan enrollees for payment owed by the health plan for covered services, and emergency services are covered services. (Health and Safety Code, sections 1345(b)(6) and 1379; title 28, California Code of Regulations, section 1300.67(g).)
- With the exception of co-payments, co-insurance and deductibles approved by the Department, contracting providers are expressly required to look solely to the health plan for amounts due the provider by the health plan. (Health and Safety Code, section 1379(b).)

Existing law provides express authority for adopting proposed section 1300.71.39 and the proposed revision to section 1300.71.38. In 2000, through adoption of Assembly Bill 1455 (AB 1455; Scott; stats 2000, ch. 827) the California State Legislature enacted a comprehensive set of statutes intended to reform the claims submission and payment systems of California’s health care industry. These amendments to the Knox-Keene Act expressly authorized the Department to adopt regulations to implement and clarify the new statutes. AB 1455 was enacted to refine the dispute resolution process between health plans and health care providers. The bill prohibited health care service plans from engaging in unfair payment patterns, and increased the penalties for doing so.

Recognizing that providers also engaged unfair billing practices, AB 1455 also empowered the Department to define “unfair billing patterns” utilized by health care providers. Because these unfair billing patterns impact the ability of plans to process claims within the statutorily mandated timeframes, and have extreme detrimental impact on enrollees, it is essential for the Department to address, in its continuing effort to improve the claims submission process for all parties, unfair billing patterns by non-contracting emergency services providers, to implement a fast, fair and cost-effective dispute resolution process for non-contracting providers to provide specific determinations for claims payment amounts, and to ensure that non-contracting providers are paid fairly and consistent with the health plans obligations to pay for covered services pursuant to Sections 1371, 1371.35 and 1371.4.

The Department’s initial efforts to promulgate regulations required by AB 1455 were met with aggressive litigation initiated by medical provider professional associations. The Department ultimately prevailed, and the Department’s regulations implementing AB 1455 were successfully adopted in August 2003, establishing standards and requirements for plans to timely pay pro-

<sup>2</sup> Section 1300.67(g) of title 28 of the California Code of Regulations further clarifies this statutory requirement.

<sup>3</sup> Section 1371.4(c) also provides that a health plan may deny reimbursement to a provider for a medical screening examination in cases where those services are not covered services because the enrollee did not require emergency services and care, and the enrollee reasonably should have known that an emergency did not exist. However, this regulation addresses only those situations for which a health plan is obligated to provide coverage to enrollees and reimbursement to providers.



vider claims; a process for providers and plans to report to the Department regarding unfair claims payment and billing patterns and practices; and requirements for plan processes to resolve provider disputes.

Despite these regulatory measures, and as described above, non-contracting providers of emergency services continue to directly seek payment of claims directly from enrollees. It is clear to the Department that additional rulemaking is necessary, and the Department has identified Sections 1371.38 and 1371.39 as crucial statutes requiring clarification to address these continuing serious problems.

In enacting AB 1455, including Sections 1371.38 and 1371.39, the Legislature found that:

- (a) Health care services must be available to citizens without unnecessary administrative procedures, interruptions, or delays.
- (b) *The billing by providers and the handling of claims by health care service plans are essential components of the health care delivery process and can be made more effective and efficient.*
- (c) The present system of claims submission by providers and the processing and payment of those claims by health care service plans are complex and are in need of reform in order to facilitate the prompt and efficient submission, processing, and payment of claims. Providers and health care service plans both recognize the problems in the current system and that there is an urgent need to resolve these matters.
- (d) *To ensure that health care service plans and providers do not engage in patterns of unacceptable practices, the Department of Managed Health Care should be authorized to assist in the development of a new and more efficient system of claims submission, processing, and payment.*

(Stats. 2000, c. 827, §1 (AB 1455) [emphasis added].)

Section 1371.39(b)(1) provides in pertinent part:

Unfair billing pattern means engaging in a demonstrable and unjust pattern of unbundling of claims, up coding of claims, or other demonstrable and unjustified billing patterns, as *defined by the department*. (Emphasis added.)

Section 1371.38 directs the Department to:

...adopt regulations that ensure that plans have adopted a dispute resolution mechanism pursuant to subdivision (h) of section 1367. The regulations shall require that any dispute resolution mechanism of a plan is fair, fast and cost-effective for contracting and non-contracting providers and define the term "complete and accurate claim,

including attachments and supplemental information or documentation."

The Department has identified many situations in which a plan's dispute resolution process for non-contracting providers may be fast, fair and cost-effective, yet still generate incentives for non-contracting providers to balance bill enrollees. The Department's independent dispute resolution process to be established by this proposed revision to section 1300.71.38, is intended to provide non-contracting providers an alternative to balance billing enrollees in these situations, through the Independent provider Dispute Resolution Process for non-contracting providers to provide specific determinations for claims payment amounts, and to ensure that non-contracting providers are paid fairly, including in accordance with the health plans obligation to pay for covered services pursuant to Sections 1371, 1371.35 and 1371.4.

When a health plan adjudicates an emergency service provider's claim to adjust for the provider's inappropriate unbundling of claims or up-coding of services, unfair billing patterns as defined in Section 1371.39, the amount the plan pays to the provider is correspondingly reduced. This subjects the enrollee to the provider's balance billing activities for the difference between the amount the provider billed and the amount reimbursed by the plan. With the proposed revision of section 1300.71.38, providers will have the opportunity to access an independent process, and receive a fast, fair and cost-effective adjudication on whether the plan's reimbursement was fair and reasonable.

The broad authority granted the Department by Section 1371.39(b)(1) to identify demonstrable and unjustified billing patterns in addition to unbundling and up-coding reasonably must include the authority to address additional situations where the provider of emergency services, though coding and bundling the claim appropriately, has billed an unreasonable and unjustifiable amount for the services rendered. In all of these situations, the provider has billed an amount in excess of what is reasonable and customary for the services rendered, and billing the enrollee for any excessive charges is unjust. Based on the express and broad language of Section 1371.39, the Department has clear authority to prohibit balance billing by non-contracting emergency providers by defining the practice as a demonstrable and unjust billing pattern. The Department has similarly interpreted and applied other sections of AB 1455 in defining and prohibiting unfair payment patterns by health plans. In 2003, the Department finalized and implemented its "Claims Settlement Practice Regulations" at title 28, California Code of Regulations, section 1300.71. This regulation defined twenty different payment activities by health plans that constituted "demonstrable and unfair payment patterns," substantially



expanding and specifying the few generalized categories of unfair payment activities enumerated in the legislation, such as reviewing and processing activities that result in delays, reducing the amount of payment, denying complete claims and failing to pay on the uncontested portion of a provider's claim. (Health and Safety Code, section 1371.37.) In defining unfair billing practices by providers, it is critical for the Department to take a similarly balanced but broad approach and enumerate unfair billing practices as they are identified.

Significantly, balance billing not only impacts enrollees medically and financially, it undermines any meaningful billing dispute resolution process, including those processes required by statute. By pursuing collection directly against the enrollee, providers use unfair and oppressive tactics, holding enrollees as virtual financial hostages, to pressure health plans to pay their full-billed charges, irrespective of whether their full-billed charges do, in fact, reflect the reasonable and customary value of the emergency treatment provided. This practice allows the provider to thwart the statutorily mandated dispute resolution process that plans are required to maintain for non-contracted providers to resolve billing and claims disputes. (Health and Safety Code, section 1367(h); title 28, California Code of Regulations, section 1300.71.38.)

Based on the above factual and legal analysis, the Department has determined that:

- When health plans are obligated to pay for covered services provided by an emergency services provider, and the provider collects or attempts to collect from a health plan enrollee payment for amounts owed the provider by the health plan, the provider is engaging in an unfair billing pattern.
- Unfair billing patterns by non-contracting emergency services providers must be prohibited.
- Sufficient administrative processes, within plans and the Department, including the additional independent, fast fair and cost-effective independent dispute resolution process proposed by this regulation, and legal processes through the courts, are readily available to non-contracting providers to provide fair and reasonable recourse to resolve claims payment disputes.

Accordingly, the Department has determined that adoption of this proposed regulation is essential to enable the Department to execute its statutory mandate to protect California consumers and the stability of the health care delivery system.

#### AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is non-substantive or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be addressed to Emilie Alvarez, Regulations Coordinator, at (916) 322-6727. The Director will accept comments on the modified regulation(s) via the Department's website, mail, fax, or email for 15 days after the date on which they are made available. The Director may thereafter adopt, amend, or repeal the foregoing proposal as set forth above without further notice.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named above.

#### ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Department invites the public to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

#### FISCAL IMPACT DETERMINATIONS

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: None
- Cost to local agencies and school districts required to be reimbursed under part 7 (commencing with Section 17500) of division 4 of the Government Code: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Direct or indirect costs or savings in federal funding to the state: None
- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None
- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- Significant effects on housing costs: None
- Adoption of these regulations will not:
  - (1) create or eliminate jobs within California;
  - (2) create new business or eliminate existing businesses within California; or
  - (3) affect the expansion of businesses currently doing business within California.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

### FINDING REGARDING REPORTING REQUIREMENT

Government Code section 11346.3(c) provides as follows:

No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

All reporting requirements included in these regulations do apply to businesses because the Department has determined that the regulations are necessary to maintain the health, safety and welfare of the people of the State of California.

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND GAME

Department of Fish and Game —  
Public Interest Notice

For Publication August 18, 2006  
CESA CONSISTENCY DETERMINATION FOR  
Caspar Weir Pond Maintenance Cleanout  
Mendocino County

The Department of Fish and Game (“Department”) received notice on August 1, 2006 that the California Department of Forestry and Fire Protection proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). This project consists of cleaning the accumulated sediment out of the North Fork Caspar Creek weir pond in order to restore the pond’s sediment trapping efficiency. The project includes temporarily removing fish from

the pond, draining the pond, and bypassing the creek flow around the pond.

The National Marine Fisheries Service (“NMFS”) issued a no jeopardy federal biological opinion (151422SWR02SR6251:JTJ) to the U.S. Forest Service on May 6, 2003 which authorizes incidental take of the federally and state threatened Central California Coast ESU Coho Salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code Section 2080.1, the California Department of Forestry and Fire Protection is requesting a determination that biological opinion 151422SWR02SR6251:JTJ is consistent with CESA. If the Department determines that the federal biological opinion is consistent, the California Department of Forestry and Fire Protection will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

### DEPARTMENT OF FISH AND GAME

Department of Fish and Game —  
Public Interest Notice

For Publication August 18, 2006  
CESA CONSISTENCY DETERMINATION FOR  
Santa Cruz Countywide Partners in Restoration  
Permit Coordination Program  
Santa Cruz County

The Department of Fish and Game (“Department”) received notice on July 27, 2006 that the Natural Resources Conservation Service proposes to rely on its consultation with a federal agency to carry out projects that may adversely affect species protected by the California Endangered Species Act (“CESA”). These projects consist of various streamside and in-water restoration activities undertaken by private landowners in order to restore flow and habitat conditions in Santa Cruz County creeks and streams.

The National Marine Fisheries Service (“NMFS”) issued a no jeopardy programmatic federal biological opinion (151422SWR2006SR00307:JMA) to the Natural Resources Conservation Service on July 18, 2006 which authorizes incidental take of the federally and state threatened Central California Coast ESU Cohn Salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code Section 2080.1, the Natural Resources Conservation Service is requesting a determination that biological opinion 151422SWR2006SR00307:JMA is consistent with CESA. If the Department determines that the federal biological opinion is consistent, the Natural Resources Conservation Service will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

CALIFORNIA DEPARTMENT OF  
FISH AND GAME  
CONSISTENCY DETERMINATION  
Fish and Game Code Section 2080.1  
CESA No. 2080-2006-016-02

PROJECT: Humboldt Road Private Properties  
Operational Unit project  
LOCATION: City of Chico, Butte County  
NOTIFIER: Foothill Associates Environmental  
Consulting, acting on behalf of, The  
Drake Revocable Trust, The Simmons  
Family Trust, and James E. Simmons

BACKGROUND

The Humboldt Road Private Properties Operational Unit, areas 7 and 8, 2.25-acre proposed project site is located in the eastern portion of the City of Chico, Butte County, California. The dominant habitat onsite is annual grassland with vernal pool and ephemeral drainage habitats distributed throughout. The proposed project site was historically part of the Humboldt Road Burn Dump (HRBD) which is a collection of properties totaling approximately 157 acres. Contaminant materials have been identified on approximately 70 of the 157 acres, including the 2.25-acre proposed project site. Contaminant materials from the 2.25 acres are to be removed from the site as a result of a Cleanup and Abatement Order No. R5-2003-0707, issued by the RWQCB, requiring the waste be gathered, consolidated and capped in a containment cell. The proposed project consists of excavation of, at most, 8,000 cubic yards of contaminated waste and burn ash material which will be transported to a Class I hazardous waste landfill for disposal.

The project may result in less than 0.005 acres of direct impacts to Butte County meadowfoam (*Limnanthes floccosa* ssp. *californica*) habitat. The project impacts will be mitigated by the permanent protection of 0.095 acres of Butte County meadowfoam vernal pool habitat (preservation credits) through the purchase of credits at the Fish and Wildlife Service approved Dove Ridge Conservation Bank in Butte County. This will constitute mitigation at a 19:1 ratio for Butte County meadowfoam. The acquisition of 0.095 vernal pool wetted acres at the bank includes approximately 9 acres of associated upland habitat per the FWS bank agreement conditions of approval.

Because of the project's potential for take of the listed Butte County meadowfoam habitat, the U.S. Army

Corps of Engineers consulted with the U.S. Fish and Wildlife Service (Service), as required by the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.). On July 11, 2006, the Service issued Biological Opinion No. 1-1-06-F-0157 for the Humboldt Road Private Properties Operational Unit project, describing the project actions and setting forth measures to mitigate impacts to the Butte County meadowfoam, and its habitat, listed under the California Endangered Species Act ("CESA"), Fish and Game Code Sections 2050 *et seq.* On July 17, 2006, the Director of the Department of Fish and Game (DFG) received a notice from Foothill Associates, (representing The Drake Revocable Trust, The Simmons Family Trust, and James E. Simmons, hereafter "Land Owners") pursuant to Fish and Game Code Section 2080.1, requesting a determination that the Federal Biological opinion is consistent with CESA.

DETERMINATION

Based on the terms and conditions in the federal Biological Opinion No. 1-1-06-F-0157, DFG has determined that the project is consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code Section 2081(b) and (c) for authorization of incidental take of species protected under CESA. The Department specifically finds that the measures identified in the Biological Opinion will minimize and fully mitigate the project's potential impacts on the Butte County meadowfoam. These measures include, but are not limited to, the following requirements:

1. The Land Owners will compensate for impacts to 0.005 acres of Butte County meadowfoam habitat through the purchase of 0.095 acres of Butte County meadowfoam habitat credits at the Dove Ridge Mitigation Bank, and
2. The Land Owners shall provide evidence of said purchase to DFG prior to initiation of the project work, and
3. The Land Owners shall provide a letter to DFG within 48 hours of completion of work on the project.

Pursuant to Fish and Game Code section 2080.1, incidental take authorization under CESA will not be required for incidental take of Butte County meadowfoam for the project, provided that Land Owners implement the project as described in the biological opinion and comply with the mitigation measures and other conditions described in the biological opinion. If there are any substantive changes to the project, including changes to the mitigation measures, or if the Service amends or replaces the biological opinion, the Land Owners will be required to obtain a new consistency de-



termination or a CESA incidental take permit from the Department.

## DEPARTMENT OF FISH AND GAME

CALIFORNIA DEPARTMENT OF  
FISH AND GAME  
CONSISTENCY DETERMINATION  
Fish and Game Code Section 2080.1  
Tracking Number 2080–2006–014–01

**PROJECT:** Redwood Facility Relocation Project  
**LOCATION:** Aubell State Parks Offices off of Elk Valley Road, Del Norte County  
**NOTIFIER:** California Department of Parks and Recreation

### BACKGROUND

Redwood National and State Parks (“RNSP”) is proposing to develop a new maintenance facility on Aubell Ranch (“project”) to be jointly operated by the National Park Service (“NPS”) and the California Department of Parks and Recreation (“DPR”). Located on what is currently DPR property off of Elk Creek Road, the Aubell Ranch site is currently used for DPR operations and NPS ranger functions. The new maintenance facility, including a main shop, a warehouse, equipment storage, and parking areas would consolidate federal and state maintenance operations.

Part of the project involves replacing an existing undersized culvert with a larger bottomless arch culvert and widening Aubell Lane. The culvert is located on an unnamed tributary to Elk Creek known as the “Aubell Reach.” Elk Creek enters the ocean at Crescent City and is known to have a small, but persistent population of Southern Oregon/Northern California Coast (“SONCC”) coho salmon (*Oncorhynchus kisutch*), in addition to other salmonids. Both the Aubell Reach and another unnamed tributary to Elk Creek in the proposed project area contain habitat suitable for juvenile SONCC coho rearing. SONCC coho is listed as a threatened species under both the federal Endangered Species Act (“ESA”) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (“CESA”) (Fish & G. Code, § 2050 *et seq.*).

Diversion/dewatering activities necessary to replace the culvert, the removal of a portion of alder-dominated riparian vegetation necessary to replace the culvert and widen Aubell Lane, and a likely increase of fine sediment from the project activities could result in take of

SONCC coho. Because the project has the potential to take species listed under ESA, NPS consulted with the National Oceanic and Atmospheric Administration National Marine Fisheries Service (“NMFS”). On October 27, 2005, NMFS issued a “no jeopardy” biological opinion (No.151422SWR2003AR8948:BAD) to RNSP for the project (“biological opinion”). The biological opinion describes the project and sets forth measures to avoid and mitigate project impacts to SONCC coho salmon.

On June 19, 2006, the Director of the Department of Fish and Game (“DFG”) received correspondence from DPR requesting a determination pursuant to Section 2080.1 of the Fish and Game Code that the biological opinion is consistent with CESA.

### DETERMINATION

DFG has determined that the biological opinion is consistent with CESA. The mitigation measures in the opinion meet the conditions set forth in Fish and Game Code section 2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA-listed species. Specifically, DFG finds that the take of SONCC coho will be incidental to an otherwise lawful activity (i.e., the replacement of a culvert and the widening of a road), the mitigation measures identified in the biological opinion will minimize and fully mitigate the impacts of the authorized take of SONCC coho, and the project will not jeopardize the continued existence of the species. The mitigation measures in the amended biological opinion include, but are not limited to, the following:

1. The listed and non-listed salmonids in the area of culvert construction shall be removed as needed prior to and during stream flow diversion and dewatering, and relocated to a suitable location downstream of the work area. Any necessary removal and relocation will be carried out by a RNSP fisheries biologist.
2. Effective erosion control measures shall be in place at all times during ground disturbing activities. Construction of the arch culvert will not begin until all temporary erosion controls are in place. Siltation and sediment control measures approved by the California Storm Water Quality Association and the North Coast Regional Water Quality Control Board shall be implemented in the construction areas to reduce erosion and capture eroding soil before discharge into waterways.



3. The weather forecast shall be monitored at the beginning of the work day to allow sufficient time to winterize all disturbed sites prior to a forecasted event of 50% chance of 0.5 inch of precipitation.
4. To minimize the effects of effluent entering the stream if the sewer line is damaged, the sewer line will be double-lined and placed in the fill of the arch culvert where the line crosses the stream.
5. Accumulated sediment in the streambed behind the culvert on Aubell Lane shall be removed to the fullest extent possible to minimize the delivery of fine sediment.
6. The undersized culvert on Aubell Lane will be replaced with a bottomless arch culvert during a time of low stream flow, but prior to upstream migration of adult anadromous salmonids, between June 1 and October 15. The schedule for culvert replacement will be carefully timed in consultation with the RNSP fisheries biologist. Replacement activities will avoid, to the maximum extent feasible, removal of riparian vegetation.
7. A brief post-construction report shall be sent to NMFS within 90 days after construction is completed and equipment removed from the site. This report shall include: best management practices used to avoid or minimize effects to listed species during construction; any take of salmonids that was observed; and pre- and post-project photographs using a consistent photo-point.
8. Replacement of the culvert will improve passage to potential spawning and rearing habitat for SONCC coho and improve flood flow and bedload/debris passage through the Aubell Reach.

Based on the DFG's consistency determination, DPR does not need to obtain authorization from the DFG under CESA for take of SONCC coho that occurs in carrying out the project, as provided DPR complies with the mitigation measures and other conditions described in the biological opinion. However, if the project as described in the biological opinion, including the mitigation measures therein, changes after the date to the opinion, or if NMFS again amends or replaces that opinion, DPR will need to obtain from the DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

## DEPARTMENT OF FISH AND GAME

California Department of Fish and Game  
Consistency Determination  
Fish and Game Code Section 2080.1  
CESA No. 2080-2006-015-03

Project: South Bay Aqueduct Improvement and Enlargement Project  
Location: Alameda County  
Notifier: State of California Department of Water Resources (DWR)

### BACKGROUND

The project proposed by DWR is to improve and enlarge the conveyance capacity of the existing South Bay Aqueduct (SBA) in Alameda County, California. The project area extends approximately 16.28 miles from the South Bay Pumping Plant at Bethany Reservoir, east of the Altamont Hills, to the end of the Alameda Canal south of Livermore. The UTM coordinates are zone 10 621058E 4181993N (NAD83) (USGS Clifton Court Forebay Quad) at Bethany Reservoir and 610464E 4168383N (NAD83) (USGS Altamont Quad) at the end of construction south of the City of Livermore. Construction activities for the proposed project are scheduled to be completed in about a 3-year time-frame and will start in 2006.

DWR's improvement and enlargement of the SBA system will include the following elements:

- Bethany Reservoir facility improvements including expansion of an existing building, the installation of additional pumps, a new service bay and a new electrical switchyard at the South Bay Pumping Plant (SBPP) on Bethany Reservoir, and SBPP inlet dredging;
- Construction of a third parallel Brushy Creek pipeline and surge tank parallel to the existing dual pipeline system;
- Construction of the 27-acre Dyer Reservoir, a 500 acre-foot capacity reservoir to be served by the Stage 3 Brushy Creek Pipeline;
- Development of the first phase of a water pipeline from Dyer Reservoir to the proposed Altamont Water Treatment Plant (WTP) west of Dyer Road;
- Raising the height of canal embankments, canal lining and canal overcrossing structures and bridges for the Dyer, Livermore, and Alameda Canals, including Patterson Reservoir, which includes use of the 17-acre Patterson embankment materials borrow area;

- Modification of check structures and siphons along the Dyer, Livermore, and Alameda Canals; and
- Construction of new drainage overcrossing structures to eliminate drainage into canals.

Also included in the project is the placement of an asphalt overlay on Dyer Road, construction of mitigation ponds and wetlands for red-legged frog, acquiring conservation easements, and natural resource management activities on mitigation lands.

Implementation of the proposed project will result in the temporary loss of 113.5 acres and the permanent loss of 34.2 acres of grasslands that provide suitable habitat for the San Joaquin kit fox (*Vulpes macrotis mutica*), a species listed as threatened under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*) and endangered under the Federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*). Take of San Joaquin kit fox may result in connection with otherwise lawful project activities. DWR proposes several measures to avoid, minimize, and compensate for project related effects to San Joaquin kit fox. This includes acquisition, perpetual management and monitoring of at least 402 acres of suitable kit fox habitat and funding the planning for and implementation of various projects to improve opportunities for kit fox to cross over the California Aqueduct.

Because the project has the potential to take species listed under ESA, the U.S. Army Corps of Engineers (Corps) consulted with the U.S. Fish and Wildlife Service (Service). On June 28, 2006, the service issued the Corps a “no jeopardy” biological opinion (1-1-06-F-0129) for the project. The biological opinion describes the project and sets forth measures to mitigate project impacts to San Joaquin kit fox. On June 30, 2006, the Director of DFG received a notice from Jim O’Toole, representing DWR, requesting a determination that the biological opinion is consistent with CESA.

#### DETERMINATION

DFG has determined the biological opinion is consistent with CESA. The mitigation measures in the opinion meet the conditions set forth in Fish and Game Code section 2081, subparagraphs (b) and (c), for DFG authorization of incidental take of CESA-listed species. Specifically DFG finds that the take of San Joaquin kit fox will be incidental to an otherwise lawful activity, and the mitigation measures identified in the biological opinion will minimize and fully mitigate the impacts of the authorized take on San Joaquin kit fox. The mitiga-

tion measures in the opinion include, but are not limited to, the following:

1. DWR will compensate for temporary impacts to 113.5 acres and permanent impacts to 34.2 acres of grasslands that provide suitable habitat for the San Joaquin kit fox through the conservation and management of at least 405 acres of suitable kit fox habitat at two locations: 127 acres at the Bethany Reservoir and 288 acres at the Egan Property on Dyer Road. DWR will maintain fee title and will place a DFG- and Service-approved conservation easement over the properties.
2. Not later than ninety (90) days prior to any ground breaking for the Brushy Creek Pipeline, DWR will provide for approval by DFG and the Service a Mitigation and Monitoring plan for the conservation areas that includes a proposed endowment amount to fund long-term management of those areas. DWR will send the endowment amount to the Department of General Services (DGS) for approval immediately after approval of the endowment amount by DFG and the Service or together with the transfer of ownership document if these are sent to DFG later in time. Immediately following approval of the endowment by DGS, DWR will transfer funds to DFG. Specific actions covered under the endowment will be addressed in the Mitigation and Monitoring Plan. DWR will provide documentation to the Service and the Corps to establish that: (1) endowment funds for the perpetual management of the habitat have been transferred to DFG; (2) the third party considers them adequate; and (3) these funds have been deposited in an account that will provide adequate financing for the monitoring and perpetual management and maintenance of the conserved areas. This will be accomplished before groundbreaking for the Dyer Pipeline phase of the project.
3. DWR will ensure that the principal of the endowment will generate sufficient revenue to cover all costs for the maintenance and management of the conserved areas as described in the Mitigation and Monitoring Plan. DWR will provide the endowment funds for the Egan property to DFG immediately after it acquires the Egan Property, and will provide the endowment funds for the Bethany Conservation Area (or any alternate areas proposed for conservation and approved by DFG and the Service) immediately

after signing the conservation easement for that area.

4. DWR will provide funds in the amount of \$100,000 to \$200,000 for the planning and implementation of projects to improve the ability for kit fox to cross over the California Aqueduct and DWR system.
5. To minimize disturbance of kit fox north-south migration, DWR proposes to construct the Brushy Creek Pipeline in segments. Each segment will not exceed 5,000 feet. Construction will occur only one segment at a time. The trench (with exceptions of encasement locations) for the pipeline will be backfilled with material and re-contoured before construction of a new segment begins.
6. Conservation measures identified in the Service's *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* shall be fully implemented.

Based on DFG's consistency determination, DWR does not need to obtain authorization from DFG under CESA for take of San Joaquin kit fox that occurs in carrying out the project, provided DWR complies with the mitigation measures and other conditions described in the biological opinion. However, if the project as described in the opinion, including the mitigation measures therein, changes after the date of the opinion, or if the Service amends or replaces that opinion, DWR will need to obtain from DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081) for any incidental take that might occur during construction of the project.

Although not a condition of the Biological Opinion or this Consistency Determination, DFG requests that copies of the annual or periodic monitoring reports, or other circulated materials relevant to the project's effects on San Joaquin kit fox, be submitted to DFG's Central Coast Regional Office.

## DEPARTMENT OF HEALTH SERVICES

### NOTICE OF EXTENSION OF WRITTEN COMMENT PERIOD

#### For Notice of Proposed Rulemaking Regarding R-05-009, Vendor Training, Claims, Monitoring, and Abbreviated Appeals

Notice is hereby given that the California Department of Health Services is extending the period for submission of written comments regarding proposed regulations R-05-009, Vendor Training, Claims, Monitoring,

and Abbreviated Appeals to 5 p.m. on September 22, 2006, which is hereby designated as the close of the written comment period.

All other information contained in the notice of proposed rulemaking that was previously published in the July 21, 2006 California Regulatory Notice Register (Register 2006, No. 29-Z) remains unchanged.

## OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

### NOTICE TO INTERESTED PARTIES

August 18, 2006

### ANNOUNCEMENT OF DRAFT REPORT, PUBLIC WORKSHOP, AND PUBLIC COMMENT PERIOD

#### HEALTH ADVISORY: SAFE EATING GUIDELINES FOR FISH FROM LAKE SONOMA (SONOMA COUNTY) AND LAKE MENDOCINO (MENDOCINO COUNTY)

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) announces the availability of the draft report entitled "Health Advisory: Safe Eating Guidelines for Fish from Lake Sonoma (Sonoma County) and Lake Mendocino (Mendocino County)." The report contains an evaluation of findings of elevated mercury levels in fish from these reservoirs and provides safe eating guidelines for these water bodies. OEHHA is soliciting comments from interested parties on the draft report and advisory during a 45-day public comment period. OEHHA will also hold a public workshop to make a presentation, answer questions, and take comments on September 19, 2006, at 5:00 PM, at the North Coast Regional Water Board Office, 5550 Skylane Blvd., Suite A, Santa Rosa. Comments may be submitted at any time until the close of the comment period.

Comments on the draft report may be submitted by phone, fax, or e-mail to Dr. Margy Gassel. All comments must be received by 5:00 p.m. on October 2, 2006. OEHHA will consider comments received by this time and revise the draft report and advisory as appropriate to issue a final report and advisory.

OEHHA is making the draft document available at the OEHHA Web site at <http://www.oehha.ca.gov>. Limited copies of the report are also available by calling (510) 622-3170.

If you would like to submit comments, receive further information on this announcement, or have questions, please contact Dr. Margy Gassel using the information provided below.

Dr. Margy Gassel  
California Environmental Protection Agency  
Office of Environmental Health Hazard Assessment  
Pesticide and Environmental Toxicology Branch  
1515 Clay Street 16<sup>th</sup> Floor  
Oakland, California 94612  
Phone: (510) 622-3166  
Fax: (916) 622-3218  
e-mail: mgassel@oehha.ca.gov

## **SUMMARY OF REGULATORY ACTIONS**

### **REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### **CONTRACTORS STATE LICENSE BOARD Credit for Experience**

CSLB is repealing Title 16 section 829, which gave applicants for a contractor's license up to five percentage points for experience if the applicant failed the examination to receive a license. The Board has determined this bonus for experience is no longer necessary and may result in otherwise unqualified individuals receiving a license. The initial reasons for enacting section 829 in 1990 were: a) setting a passing point for a licensing examination was an imprecise science, b) experience credit is an alternative means to establishing an applicant's minimum competency, c) experienced applicants lacking education or language skills perform poorly on examinations and d) rescheduling applicants to take the examination is an inconvenience for applicants and an expense for the Board. The Board determined these reasons no longer justify the credit.

CSLB now uses a specific scientific procedure to determine passing scores for licensing examinations. A representative sample determines the passing score for each trade examination and evaluates each examination question. This methodology is in compliance with DCA's Examination Validation Policy mandated by Business & Professions Code section 139.

Since the implementation of the testing program, CSLB has expanded and improved the testing program and hired specialists to ensure the test is fair. CSLB no

longer believes an alternative method to establish minimum competency to receive a license is warranted.

CSLB has also implemented a Computer Assisted Testing program ("CAT") to assist applicants qualifying for reasonable accommodations pursuant to the Americans with Disabilities Act and provides translators for applicants for whom English is a second language. Applicants have up to 18 months to pass the examinations before an applicant is required to submit a new application. Each failure results in a printed breakdown of an applicant's score, giving each applicant an opportunity to study the weak areas.

Finally, since the original implementation of the test, the administration of the test has become more streamlined. Applicants who reschedule or retake the test pay a \$50 rescheduling fee that CSLB believes offsets the administrative cost.

Title 16  
California Code of Regulations  
REPEAL: 829  
Filed 08/10/06  
Effective 09/09/06  
Agency Contact: Betsy Figueroa (916) 255-3369

#### **DEPARTMENT OF CORRECTIONS AND REHABILITATION Use of Force**

Existing Section 4040.0, Article 3, Title 15 of the California Code of Regulations (CCR) pertains to the use of restraining devices on wards for security purposes in parole and institutional operations. Subsection (b) states that only reasonable and necessary force shall be used but does not define what is meant by "reasonable" or "necessary". This emergency regulatory action is both broader in scope and more specific and is intended to specify and identify the circumstances as well as the amount of force that an objective, trained, and competent Correctional Peace Officer, faced with similar facts and circumstances, would consider necessary and reasonable, as prescribed by the Commission on Peace Officer Standards and Training, to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order. The proposed regulations are also intended to establish supervision, monitoring, and evaluation of force deployment.

Title 15  
California Code of Regulations  
ADOPT: 4034.0, 4034.1, 4034.2, 4034.3, 4034.4  
REPEAL: 4036.0, 4040.0 Filed 08/11/06  
Effective 08/11/06  
Agency Contact: Sonja Dame (916) 263-3178



DEPARTMENT OF FOOD AND AGRICULTURE  
Gypsy Moth Eradication Area

This regulatory action adds Santa Barbara County and Orange County to the list of counties in 3 CCR 3591.6(a) proclaimed to be eradication areas for gypsy moth (*Lymantria dispar*). It provides authority for the state to perform control and eradication activities against this seriously destructive pest which devours fruit, forest and shade trees.

Title 3  
California Code of Regulations  
AMEND: 3591.6(a)  
Filed 08/10/06  
Effective 08/10/06  
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF SOCIAL SERVICES  
FCCH Reporting Requirements and FCC Consumer Awareness Information

This rulemaking implements SB 685 (2001) [Health & Safety Code section 1597.467], by establishing the licensees' reporting requirements to parents and to the Department of Social Services regarding "unusual incidents" and modifications to Family Child Care Homes, as well as providing for the dissemination of various forms to parents.

Title 22, MPP  
California Code of Regulations  
ADOPT: 102416.2, 102416.3 AMEND: 102419, 102423  
Filed 08/11/06  
Effective 09/10/06  
Agency Contact: Alison Garcia (916) 657-2586

EMPLOYMENT TRAINING PANEL  
Repealing Outdated Procedures

This rulemaking action would eliminate from the CCR outdated procedures for funding programs and incorrect procedures for responding to requests under the Public Records Act.

Title 22  
California Code of Regulations  
REPEAL: 4402.1, 4403, 4408, 4431  
Filed 08/09/06  
Effective 09/08/06  
Agency Contact: Maureen Reilly (916) 327-5422

FISH AND GAME COMMISSION  
Klamath River Sport Fishing

This regulatory action restricts the recreational take of Chinook salmon in the Klamath River system to conform to action taken by the National Marine Fisheries Service. In addition, this regulatory action adds one

brown to the daily bag limit for trout and moves up the opener of the Trinity River main stem between 250 feet below Lewiston Dam and the Old Lewiston Bridge from the last Saturday in April to April 1st.

Title 14  
California Code of Regulations  
AMEND: 7.50  
Filed 08/11/06  
Effective 08/15/06  
Agency Contact: Sherrie Koell (916) 653-4899

STATE ALLOCATION BOARD  
Leroy F. Greene School Facilities Act of 1998 — AB (Goldberg)

This regulatory action implements and makes specific Education Code 17071.75, which was amended by AB 491, Chapter 710, Statutes of 2005, to define levels of high pupil density and allow eligible school districts to utilize an Alternative Enrollment Projection method to generate additional eligibility for School Facility Program new construction projects. These regulations define some applicable terms, describe the application process and what districts must submit to support their enrollment projections using this new method, and describe both how eligibility will be determined and the limitations of funding.

Sections 1859.202 and 1866 were not part of the original emergency action, but were approved in this action as changes without regulatory effect pursuant to 1 CCR 100.

Title 2  
California Code of Regulations  
AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, 1859.202, 1866  
Filed 08/11/06  
Effective 08/11/06  
Agency Contact: Robert Young (916) 445-0083

STATE WATER RESOURCES CONTROL BOARD  
Establish TMDLs for Sediment and Temperature in Scott River Watershed

This action amends the Water Quality Control Plan for the North Coast Region by adoption of the Action Plan for the Scott River Sediment and Temperature Total Maximum Daily Loads (Scott River TMDL Action Plan). The Scott River TMDL Action Plan establishes sediment and water temperature load allocation targets and directs conditions and actions to be considered and incorporated into regulatory and non-regulatory actions in order to achieve targeted sediment and temperature load allocations and protect the beneficial uses of water in the Scott River watershed within 40 years of EPA approval of the plan.

Title 23  
California Code of Regulations  
ADOPT: 3907  
Filed 08/11/06  
Effective  
Agency Contact: Rik Rasmussen (916) 341-5549

1859.77.1, 1859.79, 1859.79.2, 1859.83,  
1859.104, 1859.202, 1859.66  
03/08/06 AMEND: 56, 56.1, 56.2, 56.3, 56.4, 56.5,  
56.6, 56.7, 56.8

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN MARCH 08, 2006 TO  
AUGUST 09, 2006**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

03/28/06 AMEND: 1395  
03/27/06 ADOPT: 250, 260, 270, 280 AMEND: 55

**Title 2**

07/24/06 AMEND: 18944  
07/06/06 AMEND: 575.1, 575.2  
06/20/06 AMEND: 18537  
06/08/06 AMEND: 18526  
05/26/06 ADOPT: 18438.5 AMEND: 18438.8  
05/25/06 AMEND: 18942  
05/24/06 AMEND: 433.1  
05/24/06 ADOPT: Div. 8, Ch. 111, Sec. 59560  
05/17/06 ADOPT: 22610.1, 22610.2, 22610.3, 22610.4  
05/15/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, Form SAB 50-04  
05/08/06 AMEND: 18537.1  
04/24/06 AMEND: 20108.70, Division 7  
04/10/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80  
04/04/06 ADOPT: 18215.1 AMEND: 18225.4, 18428  
03/14/06 ADOPT: 1859.70.3, 1859.71.5, 1859.78.9, 1859.93.2, 1859.93.3 AMEND: 1859.2, 1859.61, 1859.74,

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08/01/06 AMEND: 3591.6(a)  
07/28/06 AMEND: 3591.2(a)  
07/26/06 AMEND: 3700(c)  
07/21/06 REPEAL: 1366  
07/19/06 ADOPT: 6310 AMEND: 6170  
07/18/06 ADOPT: 6960 AMEND: 6000  
07/17/06 AMEND: 3591.6(a)  
07/05/06 AMEND: 3591.6  
07/03/06 AMEND: 3589(a)  
06/28/06 AMEND: 3433(b)  
06/12/06 AMEND: 3433(b)  
05/23/06 ADOPT: 6580, 6582, 6584  
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05/18/06 ADOPT: 1472.7.2 AMEND: 1472, 1472.4  
05/18/06 AMEND: 3591.12(a)  
05/11/06 AMEND: 3591.19  
04/28/06 AMEND: 1380.19, 1420.10  
04/27/06 AMEND: 3406(b)  
04/13/06 AMEND: 1446.4, 1454.10, 1462.10  
04/11/06 AMEND: 3700(c)  
04/11/06 AMEND: 3700(c)  
04/10/06 AMEND: 3406(b)  
03/30/06 AMEND: 3406(b)  
03/28/06 AMEND: 3406(b)  
03/23/06 ADOPT: 6310 AMEND: 6170

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07/17/06 AMEND: 2240(e)  
06/20/06 AMEND: 1472  
06/01/06 AMEND: 8070(d), 8071(a)(9), 8072, 8073(c), 8074(b), 8076(c)(1)  
05/18/06 ADOPT: 12358  
05/05/06 AMEND: 150  
03/24/06 ADOPT: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190, 10191  
03/23/06 ADOPT: 10302(bb), 10305(d), 10305(e), 10315(d), 10315(j), 10320(b), 10322(e), 10325(c), 10325(c)(3)(K), 10325(c)(6), 10325(c)(8), 10325(c)(12), 10325(f)(7), 10325(f)(10), 10325(g)(5)(B)(ii), 10325(g)(5)(B)(iv), 10325(g)(5)(B)(v), 10326(g)(6), 1036(g)(7)

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07/31/06 ADOPT: 1043.2, 1043.4, 1043.6, 1043.8, 1043.10, 1047, 1048 AMEND: 1040, 1041, 1043, 1044 REPEAL: 1042, 1045, 1046

07/25/06 ADOPT: 1207.1, 1207.2 AMEND: 1204.5

07/21/06 ADOPT: 15566, 15567, 15568, 15569

07/14/06 ADOPT: 51016.5, 55183

06/12/06 ADOPT: 19833.5, 19833.6 AMEND: 19815, 19816, 19816.1, 19819, 19824, 19828.1, 19831

06/09/06 ADOPT: 19827 AMEND: 19812, 19813, 19814, 19814.1, 19815, 19816, 19817, 19817.1, 19826, 19826.1, 19836, 19851, 19853

05/25/06 AMEND: 1074

05/16/06 ADOPT: 51025.5

05/15/06 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7

05/12/06 AMEND: 19819, 19851

04/28/06 AMEND: 51026, 53206, 54024, 54100, 54616, 54700, 54706, 55005, 55160, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55403, 55404, 55512, 55522, 55530, 55605, 55675, 55753.5, 55753.7, 56000, 56050, 56062, 56200, 56201, 56202, 56204

04/04/06 AMEND: 42920

04/04/06 AMEND: 11704

03/16/06 ADOPT: 1207.1, 1207.2 AMEND: 1204.5

03/16/06 ADOPT: 15566, 15567, 15568, 15569

03/15/06 AMEND: 51000, 51022, 51023, 51100, 51102, 53407, 53410.1, 53413, 53501, 54010, 54041, 54050, 54200, 54220, 54300, 54600, 54604, 54608, 54610, 54612, 54626, 54630, 55002, 55231, 55402, 55405, 55534, 55600, 55602, 55630, 55720, 55729, 55756.5, 55761, 5580

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07/31/06 AMEND: 5154.1

07/28/06 AMEND: Subchapter 4, Appendix B, Plate B-1-a

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07/19/06 ADOPT: 10004, 10005 AMEND: 10133.53, 10133.55

07/18/06 AMEND: 3270

07/13/06 ADOPT: 3395

06/30/06 AMEND: 9793, 9795

06/26/06 ADOPT: 6858 AMEND: 6505, 6533, 6551, 6552, 6755, 6845, 6657 REPEAL: 6846

06/06/06 AMEND: 5155

05/25/06 AMEND: 4650

04/19/06 AMEND: 3395

04/17/06 AMEND: 2320.4(a)(3)

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04/04/06 ADOPT: 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6095, 6100, 6105, 6110, 6115, 6120 REPEAL: 1200, 1204, 1205, 1210, 1215, 1216, 1217, 1220, 1225, 1230, 1240, 1250, 1270, 1280

04/03/06 AMEND: 1720

03/22/06 AMEND: 9701, 9702, 9703

03/15/06 AMEND: 1710(f)

03/14/06 ADOPT: 9783.1 AMEND: 9780, 9780.1, 9781, 9782, 9783 REPEAL: 9780.2, 9784

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05/24/05 ADOPT: 3400

05/19/06 ADOPT: 1810.100, 1810.110, 1810.200, 1810.201, 1810.202, 1810.203, 1810.203.5, 1810.204, 1810.205, 1810.205.1, 1810.205.2, 1810.206, 1810.207, 1810.208, 1810.209, 1810.210, 1810.211, 1810.212, 1810.213, 1810.214, 1810.214.1, 1810.215, 1810.216

04/19/06 AMEND: 10000, 10010, 10015, 10020, 10025, 10030, 10035, 10040, 10045, 10050, 10055, 10060, 10065, 10070, 10080, 10085, 10090, 10095, 10105, 10110, 10115, 10120, 10125, 10130, 10140, 10145, 10150, 10155, 10160, 10165, 10170, 10175, 10185, 10190, 10195

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08/08/06 ADOPT: 3583 AMEND: 3500, 3525, 3527, 3528, 3541, 3542, 3543, 3544, 3563, 3568, 3603, 3622, 3668, 3681, 3682, 3761 REPEAL: 3541

08/02/06 ADOPT: 2790.7

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07/28/06	AMEND: 2698.52(c), 2698.53(b), 2698.56(c)	05/23/06	AMEND: 1002(c)	
07/26/06	ADOPT: 5280, 5281, 5282, 5283, 5284, 5285, 5286	05/22/06	REPEAL: 2033	
07/24/06	ADOPT: 2498.6	05/22/06	AMEND: 968.44, 968.46	
07/18/06	AMEND: 2498.5, 2498.6	05/12/06	AMEND: 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910	
07/14/06	AMEND: 2632.5, 2632.8, 2632.11	03/15/06	AMEND: 351, 357, 371, 376, 377, 378, 380	
07/12/06	AMEND: 2498.4.9			
07/12/06	AMEND: 2697.6	<b>Title 12</b>		
07/12/06	ADOPT: 2190.20, 2190.22, 2190.24	04/10/06	AMEND: 453.1	
07/10/06	ADOPT: 2509.21	<b>Title 13</b>		
06/30/06	ADOPT: 2194.9, 2194.10, 2194.11, 2194.12, 2194.13, 2194.14, 2194.15, 2194.16, 2194.17	07/28/06	AMEND: 154.00	
06/19/06	AMEND: 2318.6, 2353.1, 2354	06/30/06	ADOPT: 85.00, 85.02, 85.04, 85.06, 85.08	
06/05/06	AMEND: 3528	06/29/06	AMEND: 345.16	
06/01/06	ADOPT: 2695.1(g), 2695.14 AMEND: 2695.1, 2695.2, 2695.7, 2695.8, 2695.9, 2695.10, 2695.12	06/16/06	AMEND: 2023.4	
05/25/06	ADOPT: 2188.23, 2188.24, 2188.83 AMEND: 2186.1, 2188.2, 2188.6, 2188.8	06/15/06	AMEND: 1239	
05/18/06	AMEND: 2498.6	05/22/06	ADOPT: 86500, 86501	
04/28/06	ADOPT: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.15, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24	05/22/06	AMEND: 425.01	
04/20/06	AMEND: 2498.5	05/18/06	ADOPT: 550.20 AMEND: 551.11, 551.12	
04/18/06	AMEND: 2498.4.9	05/02/06	ADOPT: 345.07 AMEND: 345.06	
04/18/06	AMEND: 2498.4.9	04/04/06	AMEND: 423.00	
03/30/06	AMEND: 2698.52(c), 2698.53(b), 2698.56(c)	03/24/06	AMEND: 590	
03/24/06	ADOPT: 2498.6	03/24/06	AMEND: 156.00	
03/24/06	REPEAL: 2546, 2546.1, 2546.2, 2546.3, 2546.4, 2546.5, 2546.6, 2546.7, 2546.8	<b>Title 14</b>		
03/09/06	AMEND: 2697.6	08/04/06	ADOPT: 701, 702 AMEND: 1.74, 27.15, 27.67, 478.1, 551, 601, 708	
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07/27/06	AMEND: 1001, 1005, 1008, 1011, 1014, 1015, 1018, 1052, 1053, 1055, 1056, 1081 and Procedures D-1, D-2, D-10 E-1, F-1, and F-6	07/31/06	ADOPT: 4970, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04, 4	
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06/28/06	ADOPT: 4400(lI), 4400(mm), 4401.1, 4406 AMEND: 4440.3 REPEAL: 4400(l), 4406	07/28/06	AMEND: 15411	
06/28/06	ADOPT: 4016, 4017, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4030, 4031, 4032, 4034, 4035, 4036, 4037, 4038, 4039, 4040, 4041, 4045, 4047, 4048, 4049, 4050, 4051, 4052, 4053, 4054,	07/19/06	ADOPT: 18459.1.2, Forms CIWMB 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 18462, 18463, 18464, 18466, Penalty Tables 1, 11	



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07/11/06	AMEND: 15251	06/27/06	AMEND: 3341.5
07/11/06	ADOPT: 1723(g) AMEND: 1722(j), 1722, 1722.1, 1722.1.1, 1723(a), 1723.1(c), 1723.1(d), 1723.5, 1723.7(d)(2)(f), 1723.8	06/09/06	ADOPT: 3040.2 AMEND: 3000, 3040, 3041, 3043, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3, 3075
06/30/06	AMEND: 11900	06/06/06	AMEND: 3173.1
06/30/06	AMEND: 360, 361, 362, 363, 364	05/25/06	AMEND: 3040.1, 3341.5, 3375, 3375.3, 3378
06/29/06	AMEND: 851.23	05/22/06	ADOPT: 3043.7 AMEND: 3043.1, 3327, 3328
06/23/06	AMEND: 1220	05/16/06	AMEND: 3999.1.10, 3999.1.8
06/16/06	AMEND: 895, 895.1, 1038, 1038(f)	05/16/06	AMEND: 3999.2
06/08/06	AMEND: 746	05/01/06	AMEND: 2510, 2511, 2512, 2513
06/05/06	AMEND: 791.7, Form FG OSPR-1972	04/24/06	ADOPT: 3054.1, 3054.2, 3054.3, 3054.4, 3054.5, 3054.6 AMEND: 3050, 3051, 3052, 3053, 3054
05/26/06	AMEND: 670.2	03/27/06	AMEND: 3176.3
05/23/06	AMEND: 401	<b>Title 16</b>	
05/17/06	AMEND: 182	08/04/06	AMEND: 1886.40
05/11/06	AMEND: 27.80	08/01/06	ADOPT: 1399.180, 1399.181, 1399.182, 1399.183, 1399.184, 1399.185, 1399.186, 1399.187
05/08/06	ADOPT: 1299	07/31/06	AMEND: 3394.4, 3394.6
04/21/06	AMEND: 27.60, 28.59	07/12/06	ADOPT: 1034.1 AMEND: 1021, 1028, 1034
04/17/06	AMEND: 791.7, 793, 795	07/03/06	AMEND: 1399.152, 1399.156.4
04/11/06	AMEND: 18454, 18456, 18456.3, CIWMB form 60	06/26/06	ADOPT: 1304.5
04/10/06	AMEND: 630	06/14/06	AMEND: 2537, 2537.1
04/03/06	ADOPT: 4970, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04	06/05/06	AMEND: 3303
04/03/06	ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72	06/05/06	ADOPT: 2608
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03/27/06	AMEND: 163.1	06/01/06	ADOPT: 137
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03/20/06	AMEND: 27.82	05/30/06	AMEND: 3340.1, 3340.16, 3340.16.5, 3340.17, 3340.41 REPEAL: 3340.16.6
03/20/06	ADOPT: 5.81, 27.92 AMEND: 5.80, 27.60, 27.90, 27.95	05/22/06	AMEND: 152
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07/27/06	AMEND: 3000, 3062, 3075, 3210	04/17/06	AMEND: 1399.465
		03/29/06	ADOPT: 1399.159.01 AMEND: 1399.159, 1399.159.1 REPEAL: 1399.159.4
		03/21/06	AMEND: 1914, 1918, 1920, 1950, 1983, 1991, 1993, 1998
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03/09/06	AMEND: 3351.3 and 3351.4	06/05/06	ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11
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07/20/06	AMEND: 30100, 30253	05/12/06	ADOPT: 64442, 64443, 64447.3 AMEND: 64415 REPEAL: 64441, 64443
07/05/06	AMEND: 95000, 95001, 95002, 95003, 95004, 95005, 95006, 95007	05/10/06	ADOPT: 50960.2, 50960.4, 50960.6, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.34, 50960.36, 50961, 50965 AMEND: 50962, 50963, 50964 REPEAL: 50960, 50961
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04/20/06	ADOPT: 93119	04/20/06	AMEND: 70577, 70717, 71203, 71517, 71545
04/17/06	AMEND: 70100, 70100.1, 70200, Incorporated Documents	04/19/06	ADOPT: 4400(kk) REPEAL: 4414
04/10/06	ADOPT: 30346.11, 30346.12 AMEND: 30345.2, 30346.6, 30348.3	04/12/06	AMEND: 4416
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07/27/06	AMEND: 1591	03/23/06	AMEND: 926-3, 926-4, 926-5
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04/20/06	AMEND: 1707	07/11/06	AMEND: 80019, 80019.1, 80054, 87219, 87219.1, 87454, 87819, 87819.1, 87854, 88019, 101170, 101170.1, 101195, 102370, 102370.1, 102395
04/20/06	AMEND: 4905	<b>Title 23</b>	
<b>Title 19</b>		08/04/06	ADOPT: 3929
07/25/06	AMEND: 3.29, 557.23, 561.2, 567, 568, 574.1, 575.1, 575.3, 575.4, 594.4, 596.6, 606.1 REPEAL: 597.5, 597.6, 597.7, 597.8, 597.9 597.10, 597.11, 603.3, 605.1, 606.3, 608.7, 608.8, 614, 614.1, 614.3, 614.5, 614.6, 614.7, 614.8	08/04/06	ADOPT: 3949.2
07/05/06	AMEND: 3062.1, 3063.1		
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06/22/06	AMEND: 1601, 1602, 1604, 1605.3, 1607		
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07/24/06	ADOPT: 97900, 97901, 97902, 97910, 97911, 97912, 97913, 97914, 97915, 97916, 97917, 97920, 97921, 97922, 97923, 97924, 97925, 97926, 97927		
07/20/06	ADOPT: 68400.11, 68400.12, 68400.13, 68400.14, 68400.15, 68400.16, Appendix I AMEND: 67450.7		
06/12/06	AMEND: 51215.6, 51321, 51323, 51535.1, 51542, 51546 REPEAL: 51124.1, 51215.4, 51335.1, 51511.3		

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2814.27, 2814.28, 2814.29, 2814.30,  
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2814.23, 2814.24, 2814.25, 2814.26,  
2814.27, 2814.28, 2814.29, 2814.30,  
2814.31, 2814.32, 2814.33, 2814.34,  
2814.35, 2814.36, 2814.37

03/13/06 ADOPT: 3939.21

**Title 25**

05/15/06 AMEND: 6932

04/24/06 AMEND: Adding a title to Ch. 7,  
Subchapter 21

**Title 27**

06/13/06 AMEND: 15241, 15242

**Title 28**

06/26/06 ADOPT: 1300.67.24 REPEAL:  
1300.67.24

**Title MPP**

07/20/06 AMEND: 63-410

06/26/06 AMEND: 30-757, 30-761

04/03/06 AMEND: 11-501, 42-302, 42-701,  
42-711, 42-712, 42-713, 42-715,  
42-716, 42-718, 42-719, 42-720,  
42-721, 42-722, 42-802, 42-1009,  
42-1010, 44-111, 63-407 REPEAL:  
42-710